

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAVIER NUNEZ,

Plaintiff,

-against-

NICOLE FRASER,

Defendant.

25-CV-0631 (LTS)

ORDER OF DISMISSAL  
UNDER 28 U.S.C. § 1651

LAURA TAYLOR SWAIN, Chief United States District Judge:

On October 31, 2023, the Court barred Plaintiff from filing any future civil action arising from certain events in this court *in forma pauperis* (“IFP”), without first obtaining from the court leave to file. *See Nunez v. Silber*, ECF 1:23-CV-0625, 20 (S.D.N.Y. Oct. 31, 2023), *appeal dismissed*, No. 22-7763 (2d Cir. Mar. 20, 2024) (dismissing appeal because it “lack[ed] an arguable basis either in law or in fact” (citation omitted)). The Court specifically barred Plaintiff from filing any new actions IFP concerning (1) his eviction from a Manhattan apartment in 2018, and the related proceedings before the Civil Court of the City of New York, Housing Part; (2) the failure of a New York City Human Resources Administration caseworker to provide Plaintiff’s father with “services”; and (3) the failure of members of the New York City Police Department to investigate his claims of fraud and identity theft. *See id.*; *Nunez*, ECF 1:23-CV-0625, 17 (S.D.N.Y. Oct. 24, 2023).

On January 14, 2025, Plaintiff filed this action, *pro se*, seeking to proceed IFP. In the complaint, he names one of the defendants named in *Nunez*, No. 23-CV-0625, and he asserts the same claims arising from the same events as those asserted in that action.<sup>1</sup> Plaintiff’s complaint

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<sup>1</sup> This is the fifth complaint that Plaintiff has filed that has been dismissed under the bar order. *See Nunez v. Fraser*, ECF 1:24-CV-1388, 3, (S.D.N.Y. Feb. 28, 2024); *Nunez v. Fraser*, ECF 1:24-CV-1115, 7 (S.D.N.Y. Feb. 16, 2024); *Nunez v. Fraser*, ECF 1:24-CV-0999, 6

in this action therefore falls within the scope of the bar order. Plaintiff does not seek leave to file this new action. Accordingly, the Court dismisses this action without prejudice for failure to comply with the Court's October 31, 2023 order in *Nunez*, ECF 1:23-CV-0625, 20.

### CONCLUSION

The Court dismisses this action without prejudice for failure to comply with the Court's October 31, 2023 order in *Nunez*, ECF 1:23-CV-0625, 20. All other pending matters in this action are terminated.

The Court warns Plaintiff that should he persist in filing frivolous, duplicative, and non-meritorious litigation, it may result in the imposition of additional sanctions, including monetary penalties. *See* 28 U.S.C. § 1651.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment in this action.

SO ORDERED.

Dated: January 30, 2025  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

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(S.D.N.Y. Feb. 12, 2024); *Nunez v. Fraser*, ECF 1:23-CV-10750, 7 (S.D.N.Y. Jan. 16, 2024).